

APR 14 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

STEPHEN LIEBB,

Petitioner - Appellee,

v.

VINCE CULLEN, Acting Warden,

Respondent - Appellant.

No. 09-17872

D.C. No. 4:08-cv-02643-CW

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Claudia A. Wilken, District Judge, Presiding

Submitted April 12, 2011**
San Francisco, California

Before: REINHARDT, HAWKINS, and GOULD, Circuit Judges.

Warden Vince Cullen appeals the district court’s grant of Stephen Liebbs’s petition for a writ of habeas corpus. Liebbs argued that there was not “some evidence” to support the denial of his parole. In light of *Swarthout v. Cooke*, 131

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

S. Ct. 859 (2011) (per curiam), we hold that Liebb's federal right of due process was not violated. Liebb does not argue that he was denied an opportunity to speak at his hearing and contest the evidence against him, that he was denied access to his record in advance, or that he was not notified of the reasons why parole was denied. *See id.* at 862. Accordingly, we reverse the district court's grant of his habeas petition.

REVERSED and REMANDED.